A Report to the New York City Commissioner of Health

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December 8, 2010

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Background

Correct and consistent use of condoms greatly reduces the sexual transmission of HIV and other infections.[1] New York City and its Department of Health and Mental Hygiene have distributed free condoms since the 1970s, and in 2007 created the branded NYC Condom. In 2009, the City distributed more than 40 million free condoms through this program.

[redacted] Brooklyn Defender Services, a group which provides criminal defense to indigent populations, found that condoms were collected as criminal evidence in at least 39 of their clients' prostitution-related cases in New York City in 2008 and 2009.[2] [redacted]

In response, in summer 2010 the Department of Health and Mental Hygiene undertook a street survey to study the following: how often and in what contexts the police in New York City confiscate condoms; whether such condoms are used as criminal evidence; and whether this practice may discourage sex workers and other street-based populations from carrying condoms.

[redacted]

Methodology

[redacted] a survey questionnaire was designed by staff from the Bureau of HIV/AIDS Prevention and Control with the assistance of the Bureau of Epidemiology Services. Surveys were administered by this report's author and trained personnel from harm reduction agencies that engage in community outreach in areas known for street-based sex work (Frost'd-Harlem United, Streetwise and Safe

[1] SC Weller and K Davis-Beaty. 2002. Condom effectiveness in reducing heterosexual HIV transmission. *Cochrane Database of Systematic Reviews*. Issue 1. Art. No.: CD003255.

[2] Unpublished database based on arrest evidence vouchers and criminal depositions provided by Brooklyn Defender Services to Sex Workers Project, Urban Justice Center, 2010.

[3] [redacted]

program of the Peter Cicchino Youth Project, Safe Horizon-Streetwork, New York Harm Reduction Educators and CitiWide Harm Reduction).

Using convenience sampling methods, 63 individuals were interviewed between August and October 2010: 11 were interviewed in the offices of the above agencies while receiving services; and 52 were encountered in 9 areas known for street-based prostitution in Brooklyn, the Bronx, Manhattan and Queens. Each respondent was informed that the survey was anonymous and confidential, that all questions were voluntary, and that they would be compensated with a round-trip MetroCard for their time. Participants were often known to agency and outreach staff to have sex for money, though at least four respondents said that they did not do sex work or were no longer involved. Some persons approached on the street expressed reluctance to take the survey because they were waiting to meet a client; in other cases, participants encouraged others to take the survey because they felt the issue was important to their community.

The questionnaire (see appendix) was administered in English or in Spanish translation. To avoid having questions about condom policing influence responses about one's willingness to carry condoms, the survey first asked participants how often they carry condoms and if they have ever not carried condoms because they were afraid of trouble with the police. Subsequent questions involve whether they have ever had condoms confiscated by the police and if condom possession had been used as evidence against them in a criminal matter. This question order is reversed in the results section.

Results

(1) [redacted]

[redacted]

- 51 of 63 (81 percent) had ever been stopped and searched by a New York City police officer
- 36 of 63 (57 percent) had ever had condoms taken away from them by a New York City police officer.

[redacted] As shown in Table 1, condom confiscation has been experienced by a majority of both transgender and non-transgender women,[4] and by majorities of respondents who identified as either Latino, black or white.[5] A difference by age was observed: participants 30 and above

[4] Note that four persons who identified as female were apparently assigned a male sex at birth but prefer a female identity to a male or transgender female identity.
[5] Multiple ethnic or racial identities were accepted, thus respondents can belong to more than one category.

were more to have had condoms confiscated (75 percent) than those under 30 (39 percent).

Table 1: Participant demographics and experience with condom confiscation

	Participants	Have had condoms taken by police	Row Percentage
Age			
18 to 20	13	5	38%
21 to 29	18	7	39%
30 to 39	15	9	60%
40 to 52	17	15	88%
(Under 30)	31	12	39%
(30 and above)	32	24	75%
Gender identity			
Female	43	27	63%
Transgender female	15	8	53%
Male	5	1	20%
Race or ethnicity			
Latino or Hispanic	38	20	53%
Black or African-American	23	15	65%
White	7	6	86%
Borough of interview			
Brooklyn	15	13	87%
Bronx	18	11	61%
Manhattan	20	7	35%
Queens	10	5	50%
Total	**63**	**36**	**57%**

We asked the 36 respondents who reported having condoms taken by the police a series of follow-up questions about the last time this had happened to them. [redacted]

- **Was it on the street?:** In 32 cases (89 percent) the police seized the condoms on the street, and once on a subway platform, once in car during an undercover police sting operation and twice in an apartment raided by the police.
- **Did in happen during an arrest?:** In 26 cases (74 percent) participants were arrested after condoms were found on their person, while nine were not (one survey did not specify the outcome).
- In all nine cases in which participants were not arrested, the police kept the condoms or threw them in the trash or on the ground. [redacted]

- [redacted]
- [redacted]
- **Did the officer say anything about why he or she took the condoms?** [redacted]
- **How many condoms did they take?:** [redacted])
- [redacted] Among the 36 documented cases of condom seizure, 16 respondents (44 percent) reported having 4 or fewer condoms seized, of whom 12 were then arrested.
- **When did it last happen?:** This question was added to the survey during the study, and was asked of 26 respondents: 18 had had condoms seized within the last 6 months, and 22 with the last year, [redacted]
- **Were condoms used in against you in a criminal matter?:** Among these 36 respondents, 8 believed condoms had been used against them in a criminal matter, 2 were unsure, and 26 did not believe condoms had been used against them (including 14 who said condoms had been confiscated by the police during arrest). [redacted]

(2) [redacted]

Most participants reported consistently carrying condoms. However, a sizeable minority said that condom policing had at some point discouraged them from possessing safer sex materials (Table 2).

- 47 of 63 respondents (75 percent) report that they carry condoms "all the time" when they go out
- 18 of 63 (29 percent) said they had ever not carried condoms because they were afraid of trouble with the police.

Table 2: Patterns of condom possession

	Participants	Percentage
How often do you carry condoms		
All of the time	47	75%
Most of the time	7	11%
Some of the time	2	3%
Rarely	1	2%
Never	6	10%
Total	63	100%
Ever not carry condoms because of fear of police trouble		
Yes	45	71%
No	18	29%
Total	63	100%

[redacted] This survey found that, as presented in Table 3:

- Of the 27 respondents who have never had condoms taken by the police, 33 percent report that they carry condoms less than all of the time, while 19 percent of the 36 who had had condoms confiscated do not always carry condoms.
- Of those who have had condoms seized, 33 percent said they had ever not carried condoms because of fear of trouble with the police, versus 22 percent of those who have never had condoms taken away by the police.

[redacted]

Table 3: The association between condom confiscation and condom possession

	Condoms ever taken by the police	
	Yes	No
How often do you carry condoms		
All of the time (percent)	29 (71%)	18 (67%)
Less than all of the time (percent)	7 (19%)	9 (33%)
Ever not carry condoms due to fear of police		
Yes (percent)	12 (33%)	6 (22%)
No (percent)	24 (67%)	21 (78%)

The survey asked those whose fear of the police had caused them to not carry condoms, "Why exactly did you worry that condoms could get you into trouble with the police?" Open-ended responses noted their own experience with arrest, that of acquaintances, or of hearing that condoms could get you marked as a prostitute, while some referred to the potential embarrassment of having condoms seized.

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

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[redacted]

[redacted] is

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

Appendix: Condoms as evidence survey

Interviewer _____

Introduction: Do you have a few minutes to a do survey on condoms and the police? It is being conducted by the New York City Department of Health and its community partners to find out if people are comfortable carrying condoms in the street. You don't have to give your name and you can skip any question you don't want to answer. It will take about three minutes and at the end of the survey you'll get a round-trip MetroCard for your time. Shall we do the survey?

1. When you go out, how often do you carry condoms? *(read options except refused)*
a) **All of the time** ____
b) **Most of the time** ____
c) **Some of the time** ____
d) **Rarely** ____
e) **Never** ____
f) *(Refused to answer)* ____

2. Have you ever not carried condoms because you were afraid that they might get you in trouble with the police?
a) Yes ____
b) No ____
c) Refused to answer ____

(If 2 = yes) **2a. Why exactly did you worry that condoms could get you into trouble with the police?**

3. Have you ever been stopped and searched by a New York City police officer?
a) Yes ____
b) No ____
c) Refused to answer ____

4. Has a New York City police officer ever taken condoms away from you?
a) Yes ____
b) No ____
c) Refused to answer ____

(If 4 = yes) **4a. The last time an officer took away your condoms, can you tell me what happened?**
(*Prompt as needed*)
-- When did it last happen? _____
-- Was it on the street? Yes ___ No ___
-- Did it happen during an arrest ____ **or without an arrest** ____?
-- How many condoms did they take? _____
-- How did the officer know you had condoms? (asked, searched, etc.)

-- Did the officer say anything about why he or she took the condoms? What?

5. As far as you know, have condoms ever been used as evidence against you in a criminal matter?
a) Yes ____
b) No ____
c) Not sure ____
d) Refused to answer ____

Finally, a couple of questions about yourself.

6. How old are you?
a) Age ____
b) Refused to answer ____

7. Do you identify as female, male or transgender?
a) female ____
b) male ____
c) transgender ____
d) other/refused ____

7a. If transgender, do you identify as a...
a) **trans woman** (male to female) ____
b) **trans man** (female to male) ____

8. What racial or ethnic group do you consider yourself to be in? You may choose more than one. (*Read if needed.*)
a) Latino ____
b) Black or African-American____
c) White ____
d) Asian ____
e) Other ____
f) *(Refused to answer)* ____

Location of interview (*do not ask*): _____